IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

WRIT PETITION No.17901 of 2002

Between:

K. Hanumandlu, S/o Lakshmaiya,

Aged about 41 years, Occ: Business,

R/o Birkur, Nizamabad district.

..... PETITIONER

AND

1. The Revenue Divisional Officer,

Bodhan, Nizamabad district.

2. The Principal Secretary to Government of

Andhra Pradesh and Commissioner for Industrial

Promotion, Industries and Commerce (Mines-I)

Department, Secretariat, Hyderabad.

3. The Secretary to Govt.of A.P., Panchayat Raj

and Rural Development (Pts II) Department,

Secretariat, Hyderabad.

4. The Collector, Panchayat Raj Department,

Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ one in the nature of Writ of Mandamus or any other appropriate writ declaring the action of the respondent Nos.1 and 4 as illegal, void, arbitrary and violative of Articles 14 and 21 of Constitution of India and contrary to the quarrying rules in not allowing him to quarry for further period of 65 days and directing the respondents to allow him to quarry for a period of 2 years commencing from 30-09-2000 giving me the benefit of the period for which he was restrained from quarrying in the interests of justice.

Counsel for the Petitioner: Mr.K.RAGHUVEER REDDY

Counsel for the Respondents: ADVOCATE GENERAL

The Court made the following :

ORAL ORDER:

I have heard learned counsel for the parties.

Petitioner has questioned the action of respondents to be violative of Articles 14 and 21 of the Constitution in not allowing him to quarry for a further period of 65 days and prayed for consequential directions to the respondents to allow him to quarry for a period of two complete years commencing from 30-9-2000 giving benefit for the period during which he was restrained from quarrying.

On 6-9-2000 tenders were called and on 30-9-2000 confirmation proceedings were issued by the 1st respondent with respect to quarrying of sand in Chinchali village, Kistapur Gram Panchayat of Birkur Mandal. The petitioner alleged that he was stopped from quarrying sand despite deposit of bid amount. Aggrieved by the said action, he filed W.P.No.20886 of 2000 and in W.P.M.P.No.26547 of 2000 interim direction was issued directing the respondents to allow the petitioner to carry on quarrying operation. The petitioner alleged that from 6-10-2000 to 15-11-2000 for a period of 40 days he was prevented from quarrying the sand. Again on 12-4-2002 4th respondent issued Proceedings under 'Neeru Meeru' programme, because of which quarrying operation could not be carried from 12-4-2002 to 7-5-2002. W.P.No.9011 of 2002 was filed and orders of 4th respondent were suspended by an interim order. Though the lease period has now expired, the grievance of the petitioner, which is surviving in the main writ petition, is the period of 65 days during which, as per the allegations made by the petitioner, he was prevented from quarrying for which purpose the petitioner has alleged that a representation was submitted to respondents 1 and 4 on 2-9-2002 praying that as in the case of others,

he be also permitted to make good the shortfall by quarrying for 65 days as per rules. Thus, the only prayer in the writ petition, which survives is to permit the petitioner to quarry for a period of 65 days or make good the shortfall of 65 days as per rules.

Submissions made on behalf of the petitioner have been duly considered. Even if period of lease has now expired, in the facts as stated in the writ petition, there is no reason why the respondents should not take appropriate decision on the petitioner's representation. Whether or not the petitioner has to be permitted to quarry the sand for a period of 65 days, has to be decided by the concerned authorities in accordance with relevant rules. Representation cannot be kept pending. Non-disposal of the representation is under challenge in the writ petition. Since there is no lawful justification for not taking a decision on the representation of the petitioner, the writ petition is allowed directing respondents 1 and 4 to take appropriate decision on the petitioner's representation dated 2-9-2002 within a period of eight weeks from the date of receipt of a copy of writ order and to communicate the said decision to the petitioner.

November 10, 2004 **(DEVINDER GUPTA, CJ)**

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Wednesday, Tenth day of November Two thousand and Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Revenue Divisional Officer,

Bodhan, Nizamabad district.

2. The Principal Secretary to Government of

Andhra Pradesh and Commissioner for Industrial

Promotion, Industries and Commerce (Mines-I)

Department, Secretariat, Hyderabad.

3. The Secretary to Govt.of A.P., Panchayat Raj

and Rural Development (Pts II) Department,

Secretariat, Hyderabad.

4. The Collector, Panchayat Raj Department,

Nizamabad.

5. 2CCs to the Advocate General, High Court Buildings, Hyderabad (OUT)

6. 2CD copies